

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6871

BILL NUMBER: SB 358

DATE PREPARED: Jan 4, 2001

BILL AMENDED:

SUBJECT: Licensure of Midwives.

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FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (A) The bill establishes the Midwifery Board. It sets qualifications for a licensed certified professional midwife (CPM). The bill also requires the Board to:

- (1) develop peer review procedures;
- (2) require the purchase of liability insurance as a condition for licensure when the board determines liability insurance is sufficiently available; and
- (3) adopt rules limiting the scope of practice of licensed CPMs to nonhospital settings.

(B) The bill makes it a Class B misdemeanor to practice midwifery without a license.

(C) It allows the Board to specify circumstances under which a licensed CPM may administer certain prescription drugs.

(D) It provides that a health care provider may not be held liable for the acts or omissions of a licensed CPM or a licensed physician who has a collaborative agreement with the midwife. It also allows certain individuals to act under the supervision of a licensed CPM.

(E) The bill requires the Office of Medicaid Policy and Planning to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for licensed CPMs. The bill also repeals former definition of "midwife" in medical malpractice law.

Effective Date: July 1, 2002.

Explanation of State Expenditures: Provision A: This bill creates a new health care professional category for licensed certified professional midwives and reclassifies nurse midwives as certified nurse midwives. Certified nurse midwives would remain under the jurisdiction of the Board of Nursing while the certified professional midwives would be under the jurisdiction of the Indiana Midwifery Board established by this

bill. The Health Professions Bureau (HPB) reports as of December 2000, 42 certified nurse midwives and 46 nurse midwives are currently licensed in Indiana. This information will be updated when provided by HPB.

The seven-member Indiana Midwifery Board would be responsible for overseeing the licensing process, establishing fees and continuing education requirements, supervising the peer review process, and preparing consent and other relevant forms.

The estimated annual cost of travel and per diem for board member meetings would be approximately \$15,000. Other costs for postage, printing, telephone, and supplies are approximately \$9,000 annually. The total estimated annual cost for the Board is \$24,000. The Health Professions Bureau, which would provide staff to the Board, may require an additional PAT II position and a Secretary III position to carry out the provisions of this bill. The additional expenditures for all of the above listed positions would be \$73,841 in FY 2003 and \$73,053 in FY 2004.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of January 2, 2002, HPB employed 52 authorized full-time staff members, and had three vacancies (one COMOT3 and two PAT5 positions). Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Provision B: Under current law, any person other than a registered nurse practicing midwifery without a license commits a Class D felony. This bill would change the penalty to a Class B misdemeanor for a person who practices midwifery without a license. This provision potentially reduces the costs to the state if an offender is convicted of a misdemeanor rather than a felony. This is because offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails. A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances.

Provision E: Midwife Reimbursement Under the Medicaid Program: This bill also requires OMPP to seek a waiver from the U.S. Department of Health and Human Services (HHS) to allow Medicaid reimbursement for licensed certified professional midwives (CPMs) who are not registered nurses. According to OMPP, federal financial participation is not currently available for services rendered by a midwife when the practitioner is not a registered nurse. The bill provides that if HHS does not grant a waiver from these regulations, Medicaid will still not reimburse these midwifery services and, thus, the state General Fund will not incur any additional costs. If HHS does grant the waiver, the bill adds licensed CPM's to the list of practitioners able to receive Medicaid reimbursement. Since this does not represent an expansion of Medicaid services, the Medicaid program should not incur additional costs.

Explanation of State Revenues: Provision A: The Indiana Midwifery Board establishes fees for the examination and licensure of midwives. Presumably, fees will be set at a level designed to cover expenses. The amount of revenue that will be generated by this proposal is indeterminable but will depend on the number of CPMs who seek licensure. The Board may also impose fines up to \$500 upon a person licensed under this article who violates certain provisions of this proposal.

Provision B potentially reduces the revenue to the Common School Fund if additional court cases occur and

a fine is assessed. The maximum fine for a Class B misdemeanor is \$1,000 while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: **Provision B** could increase local expenditures if offenders are incarcerated in local jails rather than in state prisons. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost of housing a prisoner in jail is roughly \$44.

Explanation of Local Revenues:

State Agencies Affected: Health Professions Bureau, Office of the Secretary of Family and Social Services, Office of Medicaid Policy and Planning, and the Department of Insurance.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Barb McNutt, Health Professions Bureau, Pat Nolting, OMPP, 232-4318.